

**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**MONDAY, DECEMBER 11, 2006**

Mayor Kasten called the regular meeting to order at 6:04 p.m. at the Hillsborough Town Hall, 1600 Floribunda Avenue, Hillsborough, California.

**ROLL CALL:** Present: Krolik, Regan, Mullooly, Kasten  
Absent: Fannon

**MINUTES:** The minutes of the November 13, 2006 City Council meeting were approved as submitted.

**ADMINISTRATION OF OATH OF OFFICE:**

The oath was administered to Councilmember Elect D. Paul Regan by Police Chief Matt O'Connor.

**ELECTION OF MAYOR:**

By nomination of Councilmember Regan, seconded by Councilmember Krolik, unanimous on voice vote, Catherine Mullooly was elected Mayor.

**ADMINISTRATION OF OATH OF OFFICE:** Mayor

The oath was administered to Catherine Mullooly by the Honorable Beth Labson Freeman.

Mayor Mullooly conducted the remainder of the meeting.

**ELECTION OF VICE MAYOR:**

By nomination of Councilmember Regan, seconded by Councilmember Kasten, unanimous on voice vote, Christine Krolik was elected Vice Mayor.

**ADMINISTRATION OF OATH OF OFFICE:** Vice Mayor

The oath was administered to Christine Krolik by the Honorable Beth Labson Freeman.

**APPRECIATION OF FORMER MAYOR:**

Mayor Mullooly presented former Mayor Kasten with a Town of Hillsborough gavel. Mayor Mullooly recognized former Mayor Kasten's accomplishments. Former Mayor Kasten made remarks of appreciation for a number of staff members that he had worked with during his term as Mayor.

The meeting was recessed for a reception.

**CONSENT CALENDAR:**

Items 2, 6 and 11 were removed from the agenda. On motion of Vice Mayor Krolik, seconded by Councilmember Kasten, unanimous on voice vote, Consent Calendar Items 1, 3, 4, 5, 7, 8, 9, 10, and 12 were approved.

1. MONTHLY CLAIMS: NOVEMBER 1 THROUGH NOVEMBER 30, 2006

The monthly claims for November 2006 in the amount of \$3,505,690.01 were approved.

2. ACCEPTANCE OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) TOGETHER WITH THE INDEPENDENT PUBLIC ACCOUNTANT'S REPORT ON THE INTERNAL CONTROL FOR THE YEAR ENDED JUNE 30, 2006

Councilmember Regan stated that the City Council received and reviewed the Comprehensive Annual Financial Report (CAFR) and various internal control reports from Certified Public Accountants Vavrinek, Trine, Day & Company, LLP (VTD) and that he wanted to point out a few items. The CPA's letter indicated that the Town had no material weaknesses and no material adjustments, both of which are highly desirable. Page 4 of the CAFR noted that the Town was awarded by the Government Finance Officers Association (GFOA) a Certificate of Achievement for Excellence in Financial Reporting for the fiscal year ended June 30, 2005 and the Distinguished Budget Presentation Award for its Operating and Capital Budget for fiscal year 2005-2006. Additionally, on page 4, the Town was awarded for the fifth year the California Society of Municipal Finance Officers' (CSMFO) Certificate of Award for Outstanding Financial Reporting and the Certificate of Award of Excellence in Operational Budgeting for its CAFR for FY 2005.

Councilmember Regan pointed out that the last paragraph of the CPA's letter (page 9 of the CAFR) stated that the Town's basic financial statements presented fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Town of Hillsborough as of June 30, 2006.

Councilmember Regan also pointed out that the total assets listed on page 21 were \$100 million, which was very good. He stated that the CAFR indicated that the Town was stable, healthy, and well-run. Mayor Mullooly thanked Councilmember Regan for pointing out the important information from the CAFR.

On motion of Councilmember Regan, seconded by Councilmember Kasten, and unanimous on voice vote, the Comprehensive Annual Financial Report together with the independent Public Accountant's report on the internal control for the fiscal year ended June 30, 2006, was accepted.

3. RESOLUTION ADOPTING THE COUNTY OF SAN MATEO CERTIFICATION OF VOTES AND DECLARING THE RESULTS OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 7, 2006

The resolution adopting the County of San Mateo Certification of Votes and declaring the results of the General Municipal Election held on November 7, 2006, was adopted.

4. RESOLUTION AUTHORIZING COMPENSATION ADJUSTMENTS FOR UNREPRESENTED EMPLOYEES, TEAMSTERS LOCAL 856 POLICE UNIT, IAFF FIRE UNIT LOCAL 2400 AND FIRE ADMINISTRATORS

The resolution authorizing compensation adjustments for unrepresented employees, Teamsters Local 856 Police Unit, IAFF Fire Unit Local 2400 and Fire Administrators was adopted.

5. ORDINANCE AMENDING HMC SECTION 2.12.070 REGARDING TEARDOWNS – REINTRODUCTION

January 8, 2007, was set as the public hearing date to consider adoption of the ordinance amending HMC Section 2.12.070 regarding teardowns.

6. ORDINANCE IMPLEMENTING THE GENERAL PLAN POLICY REGARDING PARK-IN-LIEU FEES – INTRODUCTION

Councilmember Regan asked how the in-lieu fee in the example described in Section 16.18.030 was calculated. Assistant City Attorney Penny Greenberg replied that she would redo the calculation step-by-step to avoid any confusion. Ms. Greenberg asked the City Council if they could go onto the next agenda item to allow her time to rewrite the section. Councilmember Regan replied that the City Council would go onto the next agenda item.

On motion of Councilmember Kasten, seconded by Councilmember Regan, and unanimous on voice vote, January 8, 2007, was set as the public hearing date to consider adoption of the ordinance as amended by Ms. Greenberg implementing the General Plan policy regarding park-in-lieu fees.

7. RESOLUTION ACCEPTING AS COMPLETE THE CONTRACT WITH PACIFIC TRENCHLESS, INC. FOR THE REPLACEMENT OF A DAMAGED STORM DRAIN PIPE LOCATED ADJACENT TO 245 DARRELL ROAD

The resolution accepting as complete the contract with Pacific Trenchless, Inc. for the replacement of a damaged storm drain pipe located adjacent to 245 Darrell Road in the amount of \$24,785 was adopted.

8. RESOLUTION ACCEPTING AS COMPLETE THE CONTRACT WITH BOND BLACKTOP, INC. FOR THE 2006 PAVEMENT MAINTENANCE AND REHABILITATION PROJECT

The resolution accepting as complete the contract with Bond Blacktop, Inc. for the 2006 Pavement Maintenance and Rehabilitation Project in the amount of \$443,194.74 was adopted.

9. RESOLUTION ACCEPTING AS COMPLETE THE CONTRACT WITH FERMIN SIERRA CONSTRUCTION, INC. FOR THE WILLOW-WINDSOR STORM DRAIN IMPROVEMENT PROJECT

The resolution accepting as complete the contract with Fermin Sierra Construction, Inc. for the Willow-Windsor Storm Drain Improvement Project in the amount of \$97,350 was adopted.

10. RESOLUTION APPROVING THE CONTRACT WITH PACIFIC TRENCHLESS, INC. FOR THE 3333 RALSTON AVENUE EASEMENT STORM DRAIN REPAIR PROJECT

The resolution awarding the contract for the 3333 Ralston Avenue Easement Storm Drain Repair Project to Pacific Trenchless, Inc. in the amount of \$23,594, with a 20% contingency in the amount of \$4,720, for a total construction budget of \$28,314 to be funded by the 2006 Water and Sewer Bond, was adopted.

11. RESOLUTION APPROVING THE AGREEMENT WITH THE CITY OF BURLINGAME FOR SANITARY SEWER CLOSED CIRCUIT TELEVISION INSPECTIONS AND CLEANING SERVICES AND ALLOCATING ADDITIONAL FUNDING FOR PROFESSIONAL SERVICES IN THE SEWER BUDGET (\$50,000)

Councilmember Kasten asked Public Works Director Martha DeBry if the City of Burlingame would respond to Hillsborough's emergency sewer service calls promptly. Ms. DeBry responded that in the past, Burlingame has responded to Hillsborough's emergency calls promptly. Councilmember Kasten asked if Burlingame's prices for the sanitary sewer closed circuit television inspections and cleaning services were competitive. Ms. DeBry replied that the prices were indeed competitive and were based on the cost for Burlingame's staff and the use of their jet truck.

On motion of Councilmember Kasten, seconded by Vice Mayor Krolik, and unanimous on voice vote, the resolution approving the agreement for sanitary sewer closed circuit television inspections and cleaning services and allocating additional funding for professional services in the sewer budget for \$50,000 was adopted.

12. RESOLUTION APPROVING THE PURCHASE OF A 32' X 10' MOBILE OFFICE WITH A RESTROOM TRAILER IN THE AMOUNT OF \$13,580 AND ALLOCATING FUNDS FROM THE WATER FUND

The resolution approving the purchase of a 32' x 10' mobile office with a restroom trailer in the amount of \$13,580 and allocating funds from the Water Fund was adopted.

**PUBLIC HEARING:**

13. FUNDRAISING EVENT PERMIT APPLICATION 07-01 FOR CRYSTAL SPRINGS UPLANDS SCHOOL'S "MADCAP 2007" ANNUAL FUNDRAISING AUCTION

City Clerk Miyuki Yokoyama stated that Crystal Springs Uplands School submitted a fundraising application for their annual fundraising event. The "Madcap 2007" auction would be held on Saturday, April 28, 2007, from 6:00 p.m. to 11:00 p.m. at Crystal Springs Uplands Gryphon Center at 400 Uplands Drive.

Ms. Yokoyama stated that public notices have been sent to homeowners located within a 500-foot radius of the property and no comments have been received. Staff recommended approval of the application subject to the restrictions and conditions of the Police, Fire and Building Departments.

On motion of Vice Mayor Krolik, seconded by Councilmember Regan, unanimous on voice vote, the Fundraising Event Permit Application 07-01 for Crystal Springs Uplands School's "Madcap 2007" annual fundraising auction on April 28, 2007, subject to the conditions recommended by staff, was approved.

**OLD BUSINESS:**

14. RESOLUTION ACCEPTING THE WATER AND SEWER RATE STUDY AND AUTHORIZING IMPLEMENTATION OF RECOMMENDATIONS PRESENTED BY BARTLE WELLS ASSOCIATES, CONSULTANTS

Finance Director Edna Masbad reported that the proximate reason for the Water and Sewer Rate Study was to evaluate the Town's rate structure to determine the coverage breakdown between fixed and variable costs and how it compares with other agencies. To make the study more comprehensive, the consultant was also commissioned to conduct an independent analysis of the Town's water and sewer enterprise rates and finances and to recommend rate adjustments that should support the long-term financial health of the enterprises. The City Council awarded the contract for the study to Bartle Wells Associates on September 11, 2006. The study was presented to the Financial Advisory Committee (FAC) and discussed in two separate meetings. The FAC approved the study for recommendation to the City Council.

Ms. Masbad stated that the findings of the study determined the current fixed meter charge (\$12 bi-monthly for up to a one-inch connection) was low compared to other agencies with the current fixed meter charges equaling 4% of the total revenues compared to 15%-30% of the other agencies. The Town was recovering only 8% of the total annual fixed costs.

Ms. Masbad proceeded to present a Power Point presentation discussing the findings of the consultants. She summarized the consultants' recommendations as follows:

- The fixed meter charge should be gradually increased over the next six years, adding \$8 in the first year and \$10 each year over the next five years. This should potentially cover approximately 15% of the fixed costs.
- One bi-monthly meter charge should be charged to all residential customers with meter sizes up to 2".
- Meter fee for non-residential accounts should be aligned with American Water Works Association (AWWA) standards.
- Water usage tiers breakpoints should change as outlined in the study to promote equity and fairness among the ratepayers.
- Flow charge should be adjusted to recover the Town's cost and maintain a stable revenue stream.

- One flow charge should be charged to both residential and non-residential customers, except for the Hillsborough School District, which should continue to be charged one flat rate.
- Residential sewer rates should be raised 3% each year.
- Non-residential sewer rates should be computed based on the Equivalent Dwelling Units (EDUs).
- The Town should adopt a maximum rate per EDU representing wastewater discharge from a typical residential customer and non-residential sewer rates should be adjusted annually based on 90% of average winter water use from the prior three years.
- The connection fee should be based on the cost and capacity of utility system assets.
- A uniform water connection fee should be charged for all new residential connections.
- Connection fees for new non-residential customers should be based on projected water demand compared to demand for an average residence.
- Sewer connection fees should be based on sewer system costs divided by build-out capacity in terms of EDUs.
- Non-residential connection fees should be based on estimated wastewater flow and strength in terms of EDUs and according to the formula outlined in the study.
- Connection fees should be reevaluated not less than once every five years or upon substantial changes to capital programs.
- Between major updates, the fees should be adjusted based on the change in the Engineering News Record Construction Cost Index for 20-City Average (ENR-CCI 20 City Index).
- The Town should adopt maximum rates to cover four years in order to eliminate the need to go through the Proposition 218 process each year and to retain flexibility to revise the rate adjustments, if needed, in the intervening years.
- The Town should maintain an operating fund reserve target equal to one year of operating and maintenance expenses.
- The Town should budget a reasonable level of on-going capital repairs and replacements and fund them on an on-going, pay-as-you-go basis.

Ms. Masbad stated that Proposition 218 requires a public hearing prior to adopting proposed rate increases and a notice would be sent out 45 days before the public hearing to all affected property owners. (A copy of the notice was provided to the City Council.) The rate increases would be subject to majority protest; therefore, if more than 50% protest, the increases could not be adopted.

Ms. Masbad recommended that the City Council accept the water and sewer rate study and authorize the implementation of the recommendations presented by Bartle Wells Associates, as discussed and approved by the FAC for recommendation to the City Council.

Councilmembers Regan and Kasten thanked Ms. Masbad for her excellent report. Councilmember Kasten asked why the cash for the projected water sales was only 97% and not 100% of projected sales after factoring in the average rate adjustment. Councilmember Regan replied that the 3% allows for a little bit of a cushion. If the Town were to use 100%, there would be no allowance.

Councilmember Kasten asked if the Town was prepared for the San Francisco Public Utilities Commission's (SFPUC) huge rate increases for the Hetch Hetchy project. Mr. Alex Handlers of Bartle Wells replied that, per the current agreement, SFPUC could not charge wholesale users, such as the Town, until the project was complete, at which time the Town should expect huge rate increases. Councilmember Kasten asked if the Town's rate increases would cover the anticipated increases from SFPUC. Councilmember Regan stated that the Town's increases include the projected cost of water and the pumping cost. Ms. Masbad added that in case there would be changes to the information currently available to staff and the consultants from which the assumptions were based, the notice for proposed increases includes

the statement “Future Town water rate adjustments may be impacted if wholesale rates increase faster or slower than currently projected.”

Vice Mayor Krolik asked if meetings were planned with the Burlingame Country Club and the Hillsborough School District to review the rate increases. Councilmember Regan stated that FAC Chair Jay Benton is a member of the Burlingame Country Club and that staff could request Mr. Benton to explain the rate increases to the Country Club.

Mayor Mullooly stated that the report was very thorough and the notice regarding rate increases was clear, concise and logical.

Councilmember Kasten asked if the water rate impacts low users more than the high users. Councilmember Regan replied that the low water users are assessed a very low fee and their rates would remain low, but the increase in the fixed fee, which applies to all users, does cause a high percentage increase because the low users dollar amount base is so low. Mr. Handlers added that with the rate increase, the low users would see the lowest dollar increase, but would see the highest percentage increase compared to the high users.

On motion of Vice Mayor Krolik, seconded by Councilmember Regan, and unanimous on voice vote, the resolution accepting the water and sewer rate study and authorizing implementation of recommendations presented by Bartle Wells Associates, Consultants, was adopted.

## **DISCUSSION:**

### 15. DISCUSSION OF THE ORDINANCE REGARDING CREEK PROTECTION

Public Works Director Martha DeBry stated that the proposed Creek Protection ordinance addressed pollution and erosion control issues. Federal law requires that the Town take affirmative steps to prevent and mitigate illicit discharges of polluted materials into water of the state. This ordinance defines which creeks are subject to protection and requires a new creek protection permit be issued when construction is to occur near or in a creek.

Ms. DeBry added that under the existing ordinance, the Town does not have the authority to prohibit construction on or near a creek, nor does it provide guidance for evaluating the impact of construction on a creek. In practice, the Town has limited construction within 15 feet of creek banks. Should the ordinance be adopted, builders must obtain a new permit, in addition to the building permit, if construction has the potential to affect the creek in any way. Builders would need to implement best management practices (BMPs) at all times to avoid pollution and erosion. Additional information and environmental evaluation would also be required for projects that are anticipated to have direct impacts on a creek.

Ms. DeBry stated that this ordinance would affect approximately 500 properties that are within 100 feet of a creek that drains into an area of ten acres or more. Prior to introducing the ordinance in February 2007, notices would be mailed to residents who may be subject to the ordinance to invite public comments.

Councilmember Regan asked if the creekside property owners would only be affected if they remodel their homes. Ms. DeBry replied that they would be affected only if they pull a building permit. If the creekside homeowner were to reconstruct anything in the creek bed, the ordinance would require an additional permit for work in the creek bed or along the creek bed.

Councilmember Kasten asked that if anything was installed improperly along the creek would the Town require the homeowner to correct it. Ms. DeBry responded that if the Town discovered an inappropriate connection to the storm drain system, the Town would require correction of the problem through the Code Enforcement process. This

ordinance has the effect of more clearly defining violations as nuisances and gives the City Engineer enforcement authority.

Vice Mayor Krolik asked that if a homeowner needed to do substantial maintenance on an existing structure that abutted the creek, such as a deck or a tennis court, would the homeowner be affected by the new Creek Protection ordinance. Ms. DeBry replied that the rebuilding of a tennis court would be evaluated on a case-by-case basis.

Mayor Mullooly asked about Section 11.04.210 regarding the Department of Fish and Game's authority to inspect properties. City Engineer Cyrus Kianpour replied that the Department of Fish and Game has stricter rules. Unfortunately, the homeowner could get stuck between the Town's regulations and the Department of Fish and Game's regulations.

Councilmember Kasten asked if there was a reason for the Creek Protection ordinance now. Ms. DeBry responded that the proposed ordinance is in keeping with requirements of the National Pollutant Discharge Elimination System (NPDES) permit and provides more clarity regarding construction standards. The Town has encountered situations such as one on Bromfield Road where this ordinance would have been effective in defining property owner responsibilities.

Mayor Mullooly thanked Ms. DeBry. Ms. DeBry stated that Assistant City Engineer Dave Bishop and Assistant City Attorney Penny Greenberg did extensive work on the Creek Protection ordinance.

#### **PUBLIC COMMENT:**

There were no comments.

#### **CITY COUNCIL ITEMS:**

Vice Mayor Krolik thanked Councilmember Kasten for changing the public's opinion of Hillsborough for the better during his term as Mayor.

Councilmember Regan pointed out that the Financial Report showed that the General Fund expenditures for Central County Fire through the quarter ending September 30, 2006, reported that the salaries and overtime were down from the same period during the previous fiscal year.

Councilmember Kasten asked Police Chief Matt O'Connor if he anticipates more overtime due to the retirement of one officer and the resignation of another officer. Chief O'Connor replied that there might be a slight increase in overtime.

Councilmember Kasten recognized City Planner Maureen Morton, Chief Building Official John Mullins, and Building Department Secretary Sally Rumsey for receiving words of appreciation.

Councilmember Kasten asked if any Councilmember would be interested in joining the League of California Cities annual bocce ball tournament. Councilmember Regan and Vice Mayor Krolik replied that they would represent the Town of Hillsborough.

#### **ADJOURN:**

Mayor Mullooly adjourned the meeting at 8:43 p.m.